



NATIONAL ASSOCIATION OF THE DEAF

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July 1, 2002

Federal Communications Commission
Office of the Secretary
Room TW-A325
445 Twelfth Street SW
Washington, DC 20554

Re: **Reply Comments, CC Docket No. 02-33**
Appropriate Framework for Broadband Access
to the Internet over Wireline Facilities

Dear Ms. Salas:

The National Association of the Deaf (NAD) submits reply comments in the proceedings under Dockets 02-33, 95-20, and 98-10, which, respectively, addresses the framework issue, universal service, and FCC jurisdiction over enhanced services.

Established in 1880, the NAD is the nation's oldest and largest consumer-based national advocacy organization safeguarding the civil and accessibility rights of deaf and hard of hearing individuals in the United States. The NAD is particularly interested in broadband. In fact, the NAD recently published, together with New Millennium Research, **Broadband and Americans with Disabilities**. This publication, which is available online at: <http://www.newmillenniumresearch.org/disability.pdf>, was referenced by several commenters in the current proceeding. The NAD urges that FCC staff review this report as you proceed.

In these reply comments, the NAD wishes to associate itself with comments made by the Alliance for Public Technology (APT), filed April 15; the Rehabilitation Engineering Research Center on Telecommunications Access, filed May 3; and TDI (formerly Telecommunications for the Deaf Inc.), filed May 3. Those commenters echoed points we made in our April 15 comments, notably:

1. The FCC's obligations under section 706 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, to act affirmatively to encourage rapid and broad deployment of high-speed communications services would be abrogated were the Commission to fail to act proactively to ensure that Americans with disabilities do not have access to and cannot use broadband. According to the Census Bureau's most recent statistics (www.census.gov/prod/2001pubs/p70-73.pdf), as many as 54 million Americans have disabilities.
2. The FCC's ancillary jurisdiction, under title I, to act in the public interest provides the necessary authority for the Commission to so act.
3. Were the FCC to officially adopt its proposed decision to regard broadband as information services, one effect would be to sever whatever possible application to broadband may exist pursuant to section 255. The NAD, together with other commenters, believes that the Congressional intent in creating section 255 was in no respect to limit the protection for

Americans with disabilities only to what we now call “narrowband” communications. Accordingly, positive action by the Commission to create a “section 255-like” obligation for broadband is required. The Commission should use its title I authority to issue rules that mirror the statutory requirements of section 255.

4. The NAD pointed out in its comments, as did APT, TDI, and the RERC on Telecommunications Access, that broadband cannot be viewed simply as a transmission mechanism. People must use devices to encode, decode, use, and send broadband information. This means that for accessibility to occur for Americans with disabilities, it is necessary for devices as well as services to be accessible to and usable by people with disabilities. Failing that, services as well as products must be compatible with widely available adaptive technologies. This is what we mean by a “section 255-like” rule for broadband. Section 255 calls for telecommunications products and services to be accessible to and useable by people with disabilities, if readily achievable, and, if not readily achievable, to be compatible with adaptive technologies. Similar requirements are necessary for broadband.
5. Very high speed communications are necessary in order for broadband to reach its potential for many Americans with disabilities. In our comments (echoed by TDI), we pointed out that a minimum of 2 megabits per second (2 Mbps) speed, in all directions, is required for peer-to-peer signing and lip reading. As TDI said in its May 3 comments: “[I]t is hard to imagine a greater benefit to persons with hearing disabilities than the ability to communicate with friends and family through peer-to-peer signing carried over the Internet. The ability for a person with hearing disabilities to actually see the person with whom he is communicating vastly improves the level of communication over what is currently available through TTY devices” (p. 6). That ability requires some 2 Mbps to 5 Mbps. The Commission noted in its NPRM that such speeds are technologically feasible today. They are not widely offered, however, especially in both directions. That is why the NAD urged that the FCC recognize that a definition of “broadband” as comprising speeds of merely 200 kilobits per second in one direction is much too low.
6. The NAD believes that broadband is and should remain a technology-neutral application. It can be delivered, and should continue to be, on several platforms. Wireline telecommunications is one of the two most important such platforms at present. The other is cable modem broadband service. The NAD believes that broadband over wireless, satellite and utility (power) lines is much more remote, but will occur at some point in the coming decade. Accordingly, the NAD urges the Commission to apply accessibility requirements for broadband in a technology-neutral scheme – that broadband should be accessible to and usable by Americans with disabilities irrespective of the platform on which it is offered.
7. Finally, the NAD concurs with the RERC on Telecommunications Access (p. 9) that market forces alone are not sufficient to ensure accessibility for Americans with disabilities. The record is clear on this point. That is why the Telecommunications Act of 1996 includes section 255.

Thank you.

Sincerely yours,

A handwritten signature in black ink, reading "Nancy J. Bloch". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Nancy J. Bloch
Executive Director